



Province of Alberta

ASSURED INCOME FOR THE SEVERELY
HANDICAPPED ACT

**ASSURED INCOME FOR THE SEVERELY
HANDICAPPED GENERAL REGULATION**

Alberta Regulation 91/2007

With amendments up to and including Alberta Regulation 222/2018

Current as of January 1, 2019

Office Consolidation

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Alberta Queen's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at www.qp.alberta.ca

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(Consolidated up to 222/2018)

ALBERTA REGULATION 91/2007

Assured Income for the Severely Handicapped Act

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Definitions**1(1)** In this Regulation,

- (a) “Act” means the *Assured Income for the Severely Handicapped Act*;
- (b) “financially interdependent” does not include a financial interdependence based on the provision of child support, spousal support or adult interdependent partner support;
- (c) “institution” means a place or part of a place
 - (i) for the detention or correction of persons who have committed a crime or who are charged with the commission of a crime,
 - (ii) designated under the *Mental Health Regulation* (AR 19/2004) as a facility, or
 - (iii) designated by the Minister as an institution and that receives funding under the *Persons with Developmental Disabilities Community Governance Act*.

(2) In the Act,

- (a) “cohabiting partner” means one person with whom a person
 - (i) is residing and
 - (A) who is his or her spouse,
 - (B) has, in the opinion of a director, a relationship of interdependence as defined in the *Adult Interdependent Relationships Act*, or
 - (C) has a natural or adopted child,
 - or
 - (ii) is financially interdependent and has a relationship described in subclause (i)(A), (B) or (C) except that the persons are not residing together;
- (b) “dependent child” means an unmarried child or a child who is not in a cohabiting partner relationship for whom no financial assistance is provided under a Government of Canada or Alberta program designated by the Minister who is
 - (i) dependent for support on the person,

- (ii) residing with the person or would ordinarily be if that person or the dependent child was not residing in a facility, and
 - (iii) under 18 years of age or, if attending an education program acceptable to a director, under 20 years of age;
- (c) “facility” means
- (i) a nursing home as defined in the *Nursing Homes Act*,
 - (ii) the part of an approved hospital or auxiliary hospital as defined in the *Hospitals Act* in which a person receives similar care as received in a facility described in subclause (i) that is not designated under the *Mental Health Regulation (AR 19/2004)* as a facility,
 - (iii) the part of a residential facility approved by the Minister as a designated assisted living unit where a person is admitted or discharged by a regional health authority on the basis of health needs, or
 - (iv) a residential facility or part of a residential facility approved by the Minister in exceptional circumstances when an applicant or client has unique care needs;
- (d) “financial hardship” means that a person is unable to arrange his or her circumstances and financial affairs to meet his or her basic needs and those of his or her cohabiting partner and dependent child.

AR 91/2007 s1;162/2011

CPI adjustment date

1.1 For the purposes of the Act, the CPI adjustment date is January 1.

AR 222/2018 s2

Eligibility**When benefits provided**

2 A director may provide a person who is eligible under the Act and this Regulation

- (a) a living allowance, a modified living allowance and a child benefit in accordance with the Act,
- (b) a health benefit in accordance with section 7, and

- (c) a personal benefit in accordance with section 8 and the Act.

AR 91/2007 s2;222/2018

Asset eligibility

- 3** The value of assets is determined for the purposes of section 3.2(1)(d) of the Act in accordance with Schedule 2.

AR 91/2007 s3;222/2018

Additional eligibility conditions

- 4(1)** For the purposes of section 3.2(1)(e) of the Act, the additional conditions a person must meet to be eligible to receive a benefit are set out in this section.

- (2)** To be eligible to receive a benefit, a person must not

- (a) receive a monthly pension under Part I of the *Old Age Security Act* (Canada),
- (b) receive assistance under Part 2, Division 1 of the *Income and Employment Supports Act*, or
- (c) subject to subsections (5) and (6), be a resident of an institution.

- (3)** To be eligible to receive a health benefit under section 7(1)(b), including a health benefit received for the benefit of a cohabiting partner or dependent child, or a personal benefit under section 8(1)(b), a person must, if required by the Minister, agree to repay the benefit and to provide an assignment.

- (4)** To be eligible to receive a personal benefit under section 8(1)(a), a person must, if required by a director in appropriate circumstances, agree to repay the benefit and to provide an assignment.

- (5)** A director may exempt a client from the requirement of subsection (2)(c) for 3 months if, in the director's opinion, the client will not be a resident of the institution more than 3 months.

- (6)** If a client exempted under subsection (5) is a resident of an institution for more than 3 months, a director may provide a further 3 month exemption if, in the director's opinion, the client will not be a resident of the institution for more than 6 months.

AR 91/2007 s4;222/2018

Refusal, etc. of eligible persons

5(1) A director may refuse, vary, suspend or discontinue a benefit for which an applicant or client is eligible

- (a) if, in the opinion of the director, the applicant or client or his or her cohabiting partner has
 - (i) failed to make use of or to claim income to which he or she is entitled,
 - (ii) failed to make use of or to claim the benefit of an asset to which he or she is entitled,
 - (iii) failed to provide information as required by section 5 of the Act or provided false or incomplete information, or
 - (iv) failed to comply with a request by the director to gather or verify information directly from a third party for the purposes of section 5 of the Act,
 - (b) if, in the opinion of the director, the applicant or client has
 - (i) refused to seek or accept or has terminated reasonable employment,
 - (ii) failed to request a benefit under the *Canada Pension Plan* (Canada) or under Part 1 of the *Old Age Security Act* (Canada) or to assign payment of that benefit in an amount equivalent to the living allowance or modified living allowance to the Minister,
 - (iii) failed to make use of appropriate training or rehabilitative measures,
 - (iv) failed to comply with a referral made by the director,
 - (v) used benefits for a purpose for which they were not intended, or
 - (vi) has temporarily left Alberta,
- or
- (c) if the applicant or client is a sponsored immigrant under a sponsorship agreement pursuant to the *Immigration and Refugee Protection Act* (Canada) and, in the opinion of the director, the sponsor or co-signer is capable of providing adequate or appropriate support.

(2) A director may refuse, vary, suspend or discontinue a personal benefit if the applicant or client failed to comply with a reasonable request of the director to provide a consent to pay the applicant or client's personal benefit to a third party.

Benefits

6 Repealed AR 222/2018 s6.

Health benefit

7(1) Subject to subsection (2), a health benefit may be provided for a drug, an essential diabetic supply, ambulance service, an optical and dental good or service, or other similar good or service

- (a) as provided under a health benefit card issued by the Minister, or
- (b) that is approved by the Minister.

(2) A health benefit must not be provided to or for the benefit of a person who is eligible to receive the same or similar benefit, equal to a benefit under subsection (1)(a), from another program or source.

(3) When a benefit available from another program or source is not equal to a health benefit under subsection (1)(a), a health benefit may be provided, as the payor of last resort, for the difference.

(4) Benefits available to a person under an employee health benefit plan are subject to subsection (2) unless, in a director's opinion, it is reasonable for the person not to participate in the plan.

(5) A health benefit must not be provided for the benefit of a cohabiting partner or dependent child who is not a Canadian citizen unless the cohabiting partner or dependent child is legally resident in Alberta under the *Immigration and Refugee Protection Act* (Canada) and is

- (a) a permanent resident or refugee who is not receiving financial assistance from the Government of Canada,
- (b) a sponsored immigrant under a sponsorship agreement for whom the sponsor or co-signor are not providing, in a director's opinion, adequate or appropriate support, or
- (c) a temporary resident permit holder approved for entry into Canada by the Alberta Immigration Review Panel.

(6) A health benefit must not be provided for the benefit of a cohabiting partner or dependent child who is a resident of an institution.

(7) Despite subsection (6), if a director is of the opinion that the cohabiting partner or dependent child will not be a resident of the institution for more than 3 months, a health benefit may be provided.

(8) If a director provided a health benefit to a cohabiting partner or dependent child under subsection (7), the director may provide a health benefit for a further 3 months if, in the director's opinion, the cohabiting partner or dependent child will not be a resident of the institution for more than 6 months.

Personal benefits

8(1) A personal benefit may be provided

- (a) in accordance with section 7 of Schedule 1 of the Act and Schedule 3 of this Regulation when a director considers the benefit to be necessary, or
- (b) as approved by the Minister when the Minister considers the benefit to be necessary.

(2) A personal benefit must not be provided if the same or similar benefit is available from another program or source.

AR 91/2007 s8;222/2018

Review of Benefits

Deduction to collect debts due

9 To collect any debt due to the Government of Alberta, a director may deduct the following from the living allowance or modified living allowance payable to the client:

- (a) if there is a repayment agreement, the amount consented to;
- (b) if there is no repayment agreement, an amount that does not exceed 10% of the maximum living allowance or modified living allowance that is payable under this Regulation.

AR 91/2007 s9;162/2011;222/2018

Underpayments

10(1) If a director determines that a client was underpaid a benefit, the director must pay the outstanding amount to the client.

(2) A director may deduct from an underpayment any amount owed by the client to the Government of Alberta.

Reporting to a director

11 An applicant or client must notify a director as soon as reasonably practicable of the following:

- (a) a material change in income, assets or his or her handicap;
- (b) the termination or commencement of employment by the applicant or client or his or her cohabiting partner;
- (c) if longer than one month, the applicant's or client's or his or her dependent child's institutionalization, placement in a facility or absence from Alberta;
- (d) the commencement or dissolution of a cohabiting partner relationship;
- (e) a change in the number of his or her dependent children;
- (f) a change in his or her address or contact information;
- (g) any matter that could result in the revocation, refusal, variation or suspension of a benefit.

Financial Administrators

Appointments

12(1) A director may appoint a financial administrator without the consent of a client when authorized by a committee established by the Minister.

(2) The committee may authorize the appointment of a financial administrator if it determines that the client is not capable of managing his or her own affairs.

Duties

13(1) A financial administrator has the same obligations under the Act and this Regulation as the client whose benefit he or she administers.

(2) A financial administrator must

- (a) maintain records of receipts and disbursements of the client's benefits, and

- (b) as required by a director, provide any information the director considers necessary to determine if the financial administrator has been acting in the best interests of the client.
- (3) A financial administrator, who is an owner, officer or employee of the place of care in which the client resides, may not pay more for the client's residence and care than the amount considered reasonable by a director.
- (4) A financial administrator must provide the client, if available, a reasonable amount from the client's living allowance or modified living allowance for his or her personal use.

Revocation

14 The appointment of a financial administrator may be revoked

- (a) by a director if, in the opinion of the director,
 - (i) the financial administrator has not
 - (A) acted in the best interests of the client, or
 - (B) fulfilled his or her obligations and duties,
 - or
 - (ii) the appointment is no longer necessary,
- (b) by the client if the financial administrator was appointed by consent and the client provides written notice to a director, or
- (c) by the financial administrator if he or she provides 30 days' written notice to a director.

General Matters

Repeal

15 The *Assured Income for the Severely Handicapped Regulation* (AR 203/99) is repealed.

Expiry

16 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2020.

AR 91/2007 s16;148/2008;162/2011;143/2016;91/2018

Coming into force

17 This Regulation comes into force on the coming into force of the *Assured Income for the Severely Handicapped Act*, SA 2006 cA-45.1.

Schedule 1 Repealed AR 222/2018 s9.

Schedule 2**Determination of Value of Assets****Market value**

1(1) Assets, excluding annuities, are valued at market value less any debt secured against that asset evidenced by a written agreement.

(2) A written agreement under subsection (1) must require repayment of the debt at a rate of interest that, in the opinion of a director, was reasonable at the time the agreement was made.

(3) An asset disposed of by a person to another person will be included in the determination of the value of the person's assets if, in a director's opinion, the asset was disposed of for less than fair market value to establish or maintain eligibility for a benefit.

(4) Repealed SA 2018 c12 s2.

(5) An annuity is valued at its present value as calculated by a director in accordance with generally accepted accounting practices.

(6) A jointly or communally owned asset is equally owned by each owner unless a written document establishes the percentage of ownership of each owner.

Exempt assets

2(1) In this section,

(a) "principal residence" means one home or the home quarter section of a farm, including the buildings on the quarter section in or on which an applicant or client

(i) ordinarily resides, or

- (ii) if he or she is residing in a facility or institution, his or her cohabiting partner or dependent child principally reside;
 - (b) “vehicle” means a motor vehicle within the meaning of the *Traffic Safety Act* that is not used primarily as a recreational vehicle.
- (2) The following are not included in a determination of assets:
- (a) one principal residence;
 - (b) one vehicle and one vehicle adapted to accommodate the handicap of the applicant or client or his or her cohabiting partner or dependent child;
 - (c) a locked-in retirement account;
 - (c.1) a registered disability savings plan under section 146.4 of the *Income Tax Act* (Canada);
 - (d) clothing and reasonable household items;
 - (e) a prepaid funeral;
 - (f) repealed SA 2018 c12 s2;
 - (g) an asset held by a trustee in a bankruptcy proceeding;
 - (h) a non-commutable annuity purchased on or before February 1, 2002;
 - (i) a payment received from the Government of Canada or Alberta or the government of another province or territory exempted by the Minister for the purpose of this clause and any asset to the extent it was purchased with that payment;
 - (j) an asset exempted by a director if it is disposed of within the time specified by the director.

Designated assets

3 The following assets are designated for the purpose of section 3.3(b)(ii) of the Act:

- (a) a trust of which a person is a beneficiary;
- (b) assets described in section 2(2)(a) to (e).

AR 91/2001 Sched.2;180/2007;203/2008;
SA 2018 c12 s2;222/2018

Schedule 3**Personal Benefits**

1 Repealed AR 222/2018 s11.

Travel

2(1) A travel benefit for travel expenses may be provided when

- (a) a client or a client's dependent child has a health problem which, in the opinion of a director,
 - (i) requires regular access to insured health services in Alberta, and
 - (ii) is life-threatening or could be permanently debilitating unless the insured health services are provided,
- (b) a client or a client's dependent child must travel outside his or her community
 - (i) to receive, on a non-emergency basis, insured health services in Alberta,
 - (ii) to appear in court if required by the Government of Canada or Alberta,
 - (iii) to comply with a court order, or
 - (iv) at the request of a director,
- (c) a client or a client's dependent child must travel outside his or her community to receive addiction treatment in a residential addiction program approved by Alberta Health Services, or
- (d) a client requires access
 - (i) to a training or employment program that supports his or her efforts to obtain employment, or
 - (ii) to a structured program.

(2) A travel benefit may be paid for a person to accompany

- (a) a client if
 - (i) the person must, due to the client's medical condition, accompany the client, and

- (ii) the travel benefit is payable under subsection (1)(a), (b) or (c),

or

- (b) a client's dependent child if
 - (i) the client, due to his or her medical condition, is unable to accompany the child,
 - (ii) the person must, due to the child's medical condition or age, accompany the child, and
 - (iii) the travel benefit is payable under subsection (1)(a), (b) or (c).

Child care

3(1) A child care benefit may be provided for subsidized child care in a daycare or licensed family day home or, if subsidized child care is not available or appropriate, for private child care for a client's dependent child.

(2) The child care benefit may only be provided when no adult member of the household is able to care for the child due to

- (a) employment,
- (b) a medical condition,
- (c) involvement with a training, employment or structured program, or
- (d) attendance at an approved addictions treatment program.

(3) Despite subsection (2), a child care benefit may be provided

- (a) if a physician or a psychologist determines that it is in the best interests of the child, or
- (b) when it is unreasonable to expect a child to accompany a client for travel under section 2(1)(b) and no other adult member of the household is available, for any reason, to provide child care.

Infant needs

4 An infant benefit may be provided for items required for the care of a client's infant child if the client or his or her cohabiting partner

- (a) is at least 36 weeks pregnant or has given birth and the dependent child is not more than 6 months old, or

- (b) has, within the last 6 months, adopted a dependent child who is less than 12 months old.

Children's education

5 An education benefit may be provided for a client's dependent child

- (a) for fees and costs to attend school from pre-school to high school when the child is registered to attend, and
- (b) to establish a registered education savings plan for a client's dependent child under the *Alberta Centennial Education Savings Plan Act* if the child is eligible for a grant under that Act.

Employment and training supports

6 A training or employment benefit may be paid when a client is seeking employment, is applying for or participating in a training or employment program approved by a director or has a job offer

- (a) for applications, deposits, registration or testing fees for the training or employment program, and
- (b) for tools, goods, services or any other matter that enhances a client's employability.

Addictions treatment

7 An addiction treatment benefit may be paid for room and board when a client or his or her dependent child receives necessary addiction treatment in a residential addiction program approved by Alberta Health Services.

Special goods and services

8(1) A special goods and services benefit may be paid when a client requires

- (a) medical supplies or equipment, including maintenance of that equipment, essential to manage his or her condition,
- (b) a special diet or supplement,
- (c) specialized clothing,
- (d) a service animal if certified by a training organization approved by a director, or
- (e) a medical alert service.

(2) A special goods and services benefit under clause (a) or (b) may also be paid when required by a client's dependent child.

Moving benefit

9(1) A moving benefit may be paid for costs related to the establishment by a client of a new principal residence.

(2) Despite (1), a moving benefit may only be paid for the transportation of household items when a move to a new principal residence is essential for any of the following reasons:

- (a) the client or the client's cohabiting partner has accepted confirmed full time employment in Canada that assures the client's reasonable future financial independence;
- (b) the client is required to move to accommodation that is adapted to the client's or client's dependent child's particular disability;
- (c) the current accommodation is endangering the health or safety of the client or client's dependent child;
- (d) to escape a situation in which the client or client's dependent child is being abused;
- (e) the client is moving to another province for financial or social support.

Remote community benefit

10 A remote community benefit may be provided for a client's increased costs to maintain a principal residence in a permanent community without all-season road access.

Emergency

11 An emergency benefit may be paid for reasonable and essential goods or services required on an emergency basis when, in the opinion of a director, the client or the client's dependent child is in a situation that presents a serious health or safety risk due to circumstances beyond the client's control.

Funeral

12(1) A funeral benefit may be paid to the funeral provider for funeral expenses when a client or a client's cohabiting partner or dependent child dies or is buried or cremated in Alberta if the client and his or her cohabiting partner's financial resources are inadequate and there are no other means to pay.

(2) Despite subsection (1), when a client or a client's cohabiting partner or dependent child is buried or cremated outside of Alberta, a funeral benefit may only be paid for transferring the remains within Canada for burial or cremation.

AR 91/2011 Sched. 3;162/2011;222/2018



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